

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re LIDODERM ANTIRUST LITIGATION

Case No. 14-md-02521-WHO

THIS DOCUMENT RELATES TO:
ALL DIRECT PURCHASER ACTIONS

**ORDER APPOINTING INTERIM
DIRECT PURCHASER PLAINTIFFS'
COUNSEL**

**THIS DOCUMENT APPLIES TO THE
DIRECT PURCHASER PLAINTIFF
CASES**

1 The Court has considered the documents filed in support of the appointment of Interim Co-
 2 Lead Counsel, appointment of Interim Liaison Counsel, and adopting of the leadership structure
 3 proposed by the Direct Purchaser Plaintiffs. Docket No. 54. The Court finds that each of the
 4 proposed firms and individuals is experienced in litigating and trying complex antitrust class
 5 actions, has extensive knowledge of the applicable law, and has the appropriate resources to
 6 properly represent the class. The structure proposed by the Direct Purchaser Plaintiffs and adopted
 7 in this Order might allow duplicative work by counsel if left unchecked. It will be the
 8 responsibility of Interim Co-Lead Counsel, with the assistance of Liaison Counsel, to effectively
 9 marshal the substantial legal talent present in this case to best represent the interests of the clients
 10 and of the administration of justice.

11 THEREFORE, pursuant to Fed. R. Civ. P. 23(g):

12 1. The law firms of Faruqi & Faruqi LLP, Garwin, Gerstein & Fisher LLP, and Hagens
 13 Berman Sobol Shapiro LLP, shall serve as Interim Co-Lead Counsel for the proposed Direct
 14 Purchaser Class.

15 2. Interim Co-Lead Counsel for the proposed Direct Purchaser Class shall discharge
 16 the responsibilities set forth in paragraph 15 of the Court's Initial Case Management Order (ECF
 17 No. 2) and shall have authority over the following matters on behalf of the proposed Direct
 18 Purchaser Class: (a) the scope, order and conduct of all discovery proceedings; (b) calling
 19 meetings of counsel; (c) the initiation, response, scheduling, briefing and argument of all motions;
 20 (d) examination of witnesses and introduction of evidence at hearings; (e) acting as the
 21 spokesperson for the proposed Class in pretrial proceedings and in response to inquiries from the
 22 Court, subject to the right of any plaintiff's counsel to present non-repetitive individual or different
 23 positions; (f) retention of experts; (g) communication with defendants' counsel, including the
 24 negotiation of stipulations, with the understanding that Interim Co-Lead Counsel or their designees
 25 shall have sole authority to communicate with defendants' counsel, that defendants' counsel may
 26 rely on all agreements made with Interim Co-Lead Counsel or their designees, and that such
 27 agreements shall be binding on all counsel for the respective proposed classes; (h) assignment of
 28 such non-duplicative work to the Executive Committee and other plaintiffs' counsel as Interim Co-
 29 Lead Counsel may deem necessary and appropriate; (i) preparation of periodic status reports
 30 summarizing Interim Co-Lead Counsel's work and progress, which shall be submitted to Interim

1 Liaison Counsel who will promptly distribute copies to the other plaintiffs' attorneys within their
 2 liaison group; (j) performance of any tasks necessary and proper for Interim Co-Lead Counsel to
 3 accomplish its responsibilities as defined by the Court's orders; (k) allocation of attorneys' fees, if
 4 any are awarded by the Court; and (l) performance of such other functions as may be expressly
 authorized by further orders of the Court.

5 3. Hagens Berman Sobol Shapiro LLP. is appointed as Interim Liaison Counsel for the
 6 proposed Direct Purchaser Class and shall perform the duties set forth in paragraph 14 of the
 7 Court's Initial Case Management Order (ECF No. 2), including receiving orders and notices from
 8 the Court on behalf of all parties within their liaison group, preparing and transmitting copies of
 9 such orders and notices to the parties in their liaison group, and performing other tasks determined
 10 by the Court. Interim Liaison Counsel shall be required to maintain complete files with copies of
 11 all documents served upon them and shall make such files available to parties within their liaison
 12 group upon request. Interim Liaison Counsel are also authorized to receive orders and notices from
 13 the Judicial Panel on Multidistrict Litigation pursuant to Rule 4.1 of the Panel's Rules of Procedure
 14 or from the transferee court on behalf of all parties within their liaison group and shall be
 responsible for the preparation and transmittal of copies of such orders and notices to the parties in
 their liaison group.

15 4. An Executive Committee for the proposed Direct Purchaser Class consisting of the
 16 following law firms is appointed: Berger & Montague, P.C.; Grant & Eisenhofer, P.A.; Heim
 17 Payne & Chorush, LLP; Odom & Des Roches LLP; Smith Segura & Raphael, LLP; and Taus,
 18 Cebulash & Landau LLP.

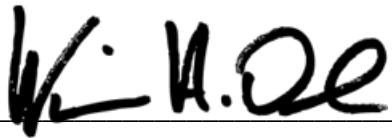
19 5. Interim Co-Lead Counsel for the proposed Direct Purchaser Class shall work
 20 together with Interim Co-Lead Counsel for the proposed End-Payor Class and with the proposed
 21 Classes' respective Executive Committees to ensure that all work necessary to prosecute this case
 22 is allocated based on the abilities and professional resources of counsel, and with the objective of
 prosecuting the case in an efficient, non-duplicative manner.

23 6. Direct Purchaser Plaintiffs' counsel shall keep detailed contemporaneous time and
 24 expense records, including identifying with specificity the hours, location and particular activity
 25 performed. Each firm that wishes to seek an award of attorneys' fees must provide to Interim Co-
 26 Lead Counsel or their designee on a monthly basis a report detailing the time and expenses spent

1 during the preceding month by each timekeeper, as prescribed by Interim Co-Lead Counsel, and
2 the accumulated total of the firm's time, hourly rates, and expenses to date.

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4 **SO ORDERED.**

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7 DATED: May 20, 2014

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28 THE HONORABLE WILLIAM H. ORRICK
UNITED STATES DISTRICT COURT JUDGE